

00-093

**ELECTIONS: CAMPAIGN FINANCE DISCLOSURE ACT.**

**Act permits political action committee to purchase and make available to legislators redistricting-related services to assist in political process of redistricting.**

The Honorable H. Morgan Griffith  
Member, House of Delegates  
December 11, 2000

You inquire regarding whether it is permissible under Virginia law for a political action committee established pursuant to § 24.2-909 of the *Code of Virginia*<sup>1</sup> to purchase redistricting-related services from a private company and make such services available to Republican members of the General Assembly to assist in the legislative process of redistricting.

You advise that Republican members of the General Assembly intend to use donated private funds, rather than taxpayer-paid public funds, to assist with the redistricting process. You advise further that Metro Consulting LLC, a privately owned company, has been formed for the purpose of obtaining computer hardware and software, data, and technical support ("redistricting tools") for use in the legislative and congressional redistricting process in the Commonwealth. You relate that Metro Consulting functions as a vendor and charges a fee for the purchase of the redistricting tools based on Metro's costs of obtaining the tools. Purchasers of these redistricting tools include political action committees that will make the tools available to Republican members of the General Assembly for use in the redistricting process.

The Campaign Finance Disclosure Act, §§ 24.2-900 through 24.2-930, constitutes "the exclusive and entire campaign finance disclosure law of the Commonwealth."<sup>2</sup> For the purposes of the Campaign Finance Disclosure Act, the term "political action committee" is defined as "any organization, other than a campaign committee or political party committee, established or maintained in whole or in part to receive and expend contributions for political purposes."<sup>3</sup> Section 24.2-909 of the Act provides that certain entities "may establish and administer for political purposes, and solicit and expend contributions for, a political action committee."<sup>4</sup>

The General Assembly does not define the term "political purpose" as used in the definition of "political action committee" in the Campaign Finance Disclosure Act and in § 24.2-909. The term must, therefore, be given its common, ordinary meaning.<sup>5</sup> The term "political" generally means "of or relating to government, a government, or the conduct of governmental affairs"; "of or relating to matters of government as distinguished from matters of law"; "of, relating to, or concerned with the making as distinguished from the administration of governmental policy"; "of, relating to, or concerned with politics"; "of relating to, or involved in party politics."<sup>6</sup> The term "purpose" generally is defined to mean "something that one sets before himself as an object to be attained"; "an end or aim to be kept in view, in any plan, measure, exertion, or operation"; "an object, effect, or result aimed at, intended, or attained"; "a subject under discussion or an action in course of execution."<sup>7</sup>

The Supreme Court of Virginia has noted that, "[w]hile in the construction of statutes the constant endeavor of the courts is to ascertain and give effect to the intention of the legislature, that intention must be gathered from the words used, unless a literal construction would involve a manifest absurdity."<sup>8</sup> "[T]he plain, obvious, and rational meaning of a statute is always to be preferred to any curious, narrow, or strained construction."<sup>9</sup> Statutes should not be interpreted in ways that produce absurd or irrational consequences.<sup>10</sup>

Section 24.2-909 permits certain entities to establish and administer political action committees "for political purposes" and to solicit and expend contributions on behalf of such committees. The commonly accepted definition of "political purposes" includes an objective relating to the conduct of governmental affairs and the making of governmental policy. The Supreme Court of the United States recognizes that "legislative reapportionment is primarily a matter for legislative consideration and determination."<sup>11</sup> The Supreme Court has also noted on numerous occasions that the redistricting process is inherently a political process.<sup>12</sup> The Court has said that "[l]egislators are, after all, politicians," and, consequently, political considerations are inherent "in the essentially political process of redistricting."<sup>13</sup>

Based on the above, I must conclude that the purchase of redistricting-related services designed to assist members of a particular political party in the redistricting process, an inherently political process, constitutes a "political purpose," and is, thus, permissible under the Campaign Finance Disclosure Act. I, therefore, also conclude that it is permissible for a political action committee established pursuant to § 24.2-909 to purchase redistricting-related services from a private company and make those services available to particular members of the General Assembly to assist in the redistricting process.

<sup>1</sup>Section 24.2-909 provides: "Any stock or nonstock corporation, labor organization, membership organization, cooperative, or other group of persons may establish and administer for political purposes, and solicit and expend contributions for, a political action committee, provided that:

"1. No political action committee shall make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisal, threat of force, or as a condition of employment.

"2. Any person soliciting a contribution to a political action committee shall, at the time of solicitation, inform the person being solicited of (i) his right to refuse to contribute without any reprisal and (ii) the political purposes of the committee."

<sup>2</sup>Section 24.2-900.

<sup>3</sup>Section 24.2-901.

<sup>4</sup>The use of the term "may" in § 24.2-909 indicates that the formation of a political action committee is permissive and discretionary. See 1997 Op. Va. Att'y Gen. 10, 12, and opinions cited at 13 n.11

<sup>5</sup>See *Anderson v. Commonwealth*, 182 Va. 560, 565, 29 S.E.2d 838, 840 (1944) (noting well-recognized meaning of words "listed or assessed" in tax statutes); Op. Va. Att'y Gen.: 1997 at 202, 202; *id.* at 72, 73; 1993 at 210, 213.

<sup>6</sup>Webster's Third New International Dictionary of the English Language Unabridged 1755 (1993).

<sup>7</sup>*Id.* at 1847.

<sup>8</sup>*Watkins v. Hall*, 161 Va. 924, 930, 172 S.E. 445, 447 (1934) (quoting *Floyd, Trustee v. Harding*, 69 Va. (28 Gratt.) 401, 405 (1877)).

<sup>9</sup>*Turner v. Commonwealth*, 226 Va. 456, 459, 309 S.E.2d 337, 338 (1983).

<sup>10</sup>*McFadden v. McNorton*, 193 Va. 455, 461, 69 S.E.2d 445, 449 (1952); see 1993 Op. Va. Att'y Gen. 192, 196, and opinions cited therein.

<sup>11</sup>*Burns v. Richardson*, 384 U.S. 73, 84-85 (1966) (quoting *Reynolds v. Sims*, 377 U.S. 533, 586 (1964)). State legislatures have "primary jurisdiction" over the legislative reapportionment process. See *Mahan v. Howell*, 410 U.S. 315, 327 (1973) (Virginia legislative reapportionment); *Minnesota State Senate v. Beens*, 406 U.S. 187, 195-201 (1972); *Ely v. Klahr*, 403 U.S. 108, 114 (1971) (Arizona state legislative districting laws); *Whitcomb v. Chavis*, 403 U.S. 124, 160-61 (1971) (Indiana state apportionment policy); *Maryland Committee v. Tawes*, 377 U.S. 656, 676 (1964).

<sup>12</sup>See *Abrams v. Johnson*, 521 U.S. 74, 117 (1997) (Breyer, J., dissenting); *Voinovich v. Quilter*, 507 U.S. 146, 156 (1993); *Grove v. Emison*, 507 U.S. 25, 34 (1993); *Chapman v. Meier*, 420 U.S. 1, 27 (1975); *White v. Weiser*, 412 U.S. 783, 794-95 (1973). See, e.g., *Bush v. Vera*, 517 U.S. 952, 1035-40 (1996) (Stevens, J., dissenting) (reasoning that Texas redistricting considerations should be left to political branches of government).

<sup>13</sup>*Karcher v. Daggett*, 462 U.S. 725, 753 (1983); see *Abrams v. Johnson*, 521 U.S. at 117.